

110TH CONGRESS
1ST SESSION

H. R. 890

IN THE SENATE OF THE UNITED STATES

MAY 10, 2007

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To establish requirements for lenders and institutions of
higher education in order to protect students and other
borrowers receiving educational loans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Student Loan Sun-
3 shine Act”.

4 **SEC. 2. INSTITUTION AND LENDER REPORTING AND DIS-**
5 **CLOSURE REQUIREMENTS.**

6 Title I of the Higher Education Act of 1965 (20
7 U.S.C. 1001 et seq.) is amended by adding at the end
8 the following:

9 **“PART E—LENDER AND INSTITUTION REQUIRE-**
10 **MENTS RELATING TO EDUCATIONAL LOANS**
11 **“SEC. 151. DEFINITIONS.**

12 “In this part:

13 “(1) COVERED INSTITUTION.—The term ‘cov-
14 ered institution’—

15 “(A) means any educational institution
16 that offers a postsecondary educational degree,
17 certificate, or program of study (including any
18 institution of higher education, as such term is
19 defined in section 102) and receives any Fed-
20 eral funding or assistance; and

21 “(B) includes an agent of the educational
22 institution (including an alumni association,
23 booster club, or other organization directly or
24 indirectly associated with such institution) or
25 employee of such institution.

1 “(2) EDUCATIONAL LOAN.—The term ‘edu-
2 cational loan’ (except when used as part of the term
3 ‘private educational loan’) means—

4 “(A) any loan made, insured, or guaran-
5 teed under title IV; or

6 “(B) a private educational loan (as defined
7 in paragraph (6)).

8 “(3) PREFERRED LENDER ARRANGEMENT.—
9 The term ‘preferred lender arrangement’ means an
10 arrangement or agreement between a lender and a
11 covered institution—

12 “(A) under which arrangement or agree-
13 ment a lender provides or otherwise issues edu-
14 cational loans to the students attending the cov-
15 ered institution or the parents of such students;
16 and

17 “(B) which arrangement or agreement re-
18 lates to the covered institution recommending,
19 promoting, endorsing, or using the educational
20 loan product of the lender.

21 “(4) LENDER.—

22 “(A) IN GENERAL.—The term ‘lender’—

23 “(i) means a creditor, except that
24 such term shall not include an issuer of

1 credit secured by a dwelling or under an
2 open end credit plan; and

3 “(ii) includes an agent of a lender.

4 “(B) INCORPORATION OF TILA DEFINI-
5 TIONS.—The terms ‘creditor’, ‘dwelling’ and
6 ‘open end credit plan’ have the meanings given
7 such terms in section 103 of the Truth in
8 Lending Act (15 U.S.C. 1602).

9 “(5) OFFICER.—The term ‘officer’ includes a
10 director or trustee of an institution.

11 “(6) PRIVATE EDUCATIONAL LOAN.—The term
12 ‘private educational loan’ means a private loan pro-
13 vided by a lender that—

14 “(A) is not made, insured, or guaranteed
15 under title IV; and

16 “(B) is issued by a lender expressly for
17 postsecondary educational expenses to a stu-
18 dent, or the parent of the student, regardless of
19 whether the loan involves enrollment certifi-
20 cation by the educational institution that the
21 student attends.

22 “(7) POSTSECONDARY EDUCATIONAL EX-
23 PENSES.—The term ‘postsecondary educational ex-
24 penses’ means any of the expenses that are included

1 as part of a student's cost of attendance, as defined
2 under section 472.

3 **“SEC. 152. REQUIREMENTS FOR LENDERS AND INSTITU-**
4 **TIONS PARTICIPATING IN PREFERRED LEND-**
5 **ER ARRANGEMENTS.**

6 “(a) CERTIFICATION BY LENDERS.—In addition to
7 any other disclosure required under Federal law, each
8 lender that participates in one or more preferred lender
9 arrangements shall annually certify to the Secretary that
10 all of the preferred lender arrangements in which it par-
11 ticipates is in compliance with the requirements of this
12 Act. Such compliance of such preferred lender arrange-
13 ment shall be reported on and attested to annually by the
14 auditor of such lender in the audit conducted pursuant
15 to section 428(b)(1)(U)(iii).

16 “(b) PROVISION OF LOAN INFORMATION.—A lender
17 may not provide a private educational loan to a student
18 attending a covered institution with which the lender has
19 a preferred lender arrangement, or the parent of such stu-
20 dent, until the covered institution has informed the stu-
21 dent or parent of their remaining options for borrowing
22 under title IV, including information on any terms and
23 conditions of available loans under such title that are more
24 favorable to the borrower.

25 “(c) USE OF INSTITUTION NAME.—

1 “(1) IN GENERAL.—A covered institution that
 2 has entered into a preferred lender arrangement
 3 with a lender regarding private educational loans
 4 shall not allow the lender to use the name, emblem,
 5 mascot, or logo of the institution, or other words,
 6 pictures, or symbols readily identified with the insti-
 7 tution, in the marketing of private educational loans
 8 to the students attending the institution in any way
 9 that implies that the institution endorses the private
 10 educational loans offered by the lender.

11 “(2) APPLICABILITY.—Paragraph (1) shall
 12 apply to any preferred lender arrangement, or exten-
 13 sion of such arrangement, entered into or renewed
 14 after the date of enactment of the Student Loan
 15 Sunshine Act.

16 **“SEC. 153. INTEREST RATE REPORT FOR INSTITUTIONS**
 17 **AND LENDERS PARTICIPATING IN PRE-**
 18 **FERRED LENDER ARRANGEMENTS.**

19 “(a) DUTIES OF THE SECRETARY.—

20 “(1) REPORT AND MODEL FORMAT.—Not later
 21 than 180 days after the date of enactment of the
 22 Student Loan Sunshine Act, the Secretary shall—

23 “(A) prepare a report on the adequacy of
 24 the information provided to students and the
 25 parents of such students about educational

1 loans, after consulting with students, represent-
2 atives of covered institutions (including finan-
3 cial aid administrators, registrars, and business
4 officers), lenders, loan servicers, and guaranty
5 agencies;

6 “(B) develop and prescribe by regulation a
7 model disclosure form to be used by lenders and
8 covered institutions in carrying out subsections
9 (b) and (c) that—

10 “(i) will be easy for students and par-
11 ents to read and understand;

12 “(ii) will be easily usable by lenders,
13 institutions, guaranty agencies, and loan
14 servicers;

15 “(iii) will provide students and par-
16 ents with the relevant information about
17 the terms and conditions for both Federal
18 and private educational loans;

19 “(iv) is based on the report’s findings
20 and developed in consultation with—

21 “(I) students;

22 “(II) representatives from insti-
23 tutions of higher education, including
24 financial aid administrators, reg-

1 istrars, business officers, and student
2 affairs officials;

3 “(III) lenders;

4 “(IV) loan servicers;

5 “(V) guaranty agencies; and

6 “(VI) with respect to the require-
7 ments of clause (vi) concerning pri-
8 vate educational loans, the Board of
9 Governors of the Federal Reserve Sys-
10 tem;

11 “(v) provides information on the ap-
12 plicable interest rates and other terms and
13 conditions of the educational loans pro-
14 vided by a lender to students attending the
15 institution, or the parents of such stu-
16 dents, disaggregated by each type of edu-
17 cational loans provided to such students or
18 parents by the lender, including—

19 “(I) the interest rate of the loan;

20 “(II) any fees associated with the
21 loan;

22 “(III) the repayment terms avail-
23 able on the loan;

24 “(IV) the opportunity for
25 deferment or forbearance in repay-

1 ment of the loan, including whether
2 the loan payments can be deferred if
3 the student is in school;

4 “(V) any additional terms and
5 conditions applied to the loan, includ-
6 ing any benefits that are contingent
7 on the repayment behavior of the bor-
8 rower;

9 “(VI) the annual percentage rate
10 for such loans, computed determined
11 in the manner required under section
12 107 of the Truth in Lending Act (15
13 U.S.C. 1606) on the basis of the ac-
14 tual net disbursed amount of the loan;

15 “(VII) the average amount bor-
16 rowed from the lender by students en-
17 rolled in the institution who obtain
18 loans of such type from the lender for
19 the preceding academic year;

20 “(VIII) the average interest rate
21 on such loans provided to such stu-
22 dents for the preceding academic year;

23 “(IX) contact information for the
24 lender; and

1 “(X) any philanthropic contribu-
2 tions made by the lender to the cov-
3 ered institution; and

4 “(vi) provides, in addition, with re-
5 spect to private educational loans, the fol-
6 lowing information with respect to loans
7 made by each lender recommended by the
8 covered institution:

9 “(I) the method of determining
10 the interest rate of the loan;

11 “(II) whether, and under what
12 conditions, early repayment may be
13 available without penalty;

14 “(III) late payment penalties;
15 and

16 “(IV) such other information as
17 the Secretary may require; and

18 “(C)(i) submit the report and model disclo-
19 sure form to the Committee on Health, Edu-
20 cation, Labor, and Pensions of the Senate and
21 the Committee on Education and Labor of the
22 House of Representatives; and

23 “(ii) make the report and model disclosure
24 form available to covered institutions, lenders,
25 and the public.

1 “(2) MODEL FORM UPDATE.—Not later than 1
2 year after the submission of the report and model
3 disclosure form described in paragraph (1)(B), the
4 Secretary shall—

5 “(A) assess the adequacy of the model dis-
6 closure form;

7 “(B) after consulting with students, rep-
8 resentatives of covered institutions (including fi-
9 nancial aid administrators, registrars, and busi-
10 ness officers), lenders, loan servicers, and guar-
11 anty agencies—

12 “(i) prepare a list of any improve-
13 ments to the model disclosure form that
14 have been identified as beneficial to bor-
15 rowers; and

16 “(ii) update the model disclosure form
17 after taking such improvements into con-
18 sideration; and

19 “(C)(i) submit the list of improvements
20 and updated model disclosure form to the Com-
21 mittee on Health, Education, Labor, and Pen-
22 sions of the Senate and the Committee on Edu-
23 cation and Labor of the House of Representa-
24 tives; and

1 “(ii) make updated model disclosure form
2 available to covered institutions, lenders, and
3 the public.

4 “(3) USE OF FORM.—The Secretary shall take
5 such steps as necessary to make the model disclo-
6 sure form, and any updated model disclosure form,
7 available to covered institutions and to encourage—

8 “(A) lenders subject to subsection (b) to
9 use the model disclosure form or updated model
10 disclosure form (if available) in providing the
11 information required under subsection (b); and

12 “(B) covered institutions to use such for-
13 mat in preparing the information reported
14 under subsection (c).

15 “(4) PROCEDURES.—Sections 482(c) and 492
16 of this Act shall not apply to the model disclosure
17 form in the regulations prescribed under paragraph
18 (1)(B), but shall apply to the updating of such form
19 under paragraph (2).

20 “(b) LENDER DUTIES.—Each lender that has a pre-
21 ferred lender arrangement with a covered institution shall
22 annually, by a date determined by the Secretary, provide
23 to the covered institution and to the Secretary the infor-
24 mation included on the model disclosure form or an up-
25 dated model disclosure form (if available) for each type

1 of educational loan provided by the lender to students at-
2 tending the covered institution, or the parents of such stu-
3 dents, for the preceding academic year.

4 “(c) COVERED INSTITUTION REPORTS.—Each cov-
5 ered institution shall—

6 “(1) prepare and submit to the Secretary an
7 annual report, by a date determined by the Sec-
8 retary, that includes, for each lender that has a pre-
9 ferred lender arrangement with the covered institu-
10 tion and that has submitted to the institution the in-
11 formation required under subsection (b)—

12 “(A) the information included on the
13 model disclosure form or updated model disclo-
14 sure form (if available) for each type of edu-
15 cational loan provided by the lender to students
16 attending the covered institution, or the parents
17 of such students; and

18 “(B) a detailed explanation of why the cov-
19 ered institution believes the terms and condi-
20 tions of each type of educational loan provided
21 pursuant to the agreement are beneficial for
22 students attending the covered institution, or
23 the parents of such students; and

24 “(2) ensure that the report required under
25 paragraph (1) is made available to the public and

1 provided to students attending or planning to attend
2 the covered institution, and the parents of such stu-
3 dents, in time for the student or parent to take such
4 information into account before applying for or se-
5 lecting an educational loan.

6 “(d) DISCLOSURES BY COVERED INSTITUTIONS.—A
7 covered institution shall disclose, on its website and in the
8 informational materials described in subsection (e)—

9 “(1) a statement that—

10 “(A) indicates that students are not lim-
11 ited to or required to use the lenders the insti-
12 tutions recommends; and

13 “(B) the institution is required to process
14 the documents required to obtain a loan from
15 any eligible lender the student selects;

16 “(2) at a minimum, all of the information pro-
17 vided by the model disclosure form prescribed under
18 subsection (a)(1)(B) with respect to any lender rec-
19 ommended by the institution for Federal student
20 loans and, as applicable, private educational loans;

21 “(3) the maximum amount of Federal grant
22 and loan aid available to students in an easy-to-un-
23 derstand format; and

24 “(4) the institution’s cost of attendance (as de-
25 termined under section 472).

1 “(e) INFORMATIONAL MATERIALS.—The informa-
2 tional materials described in this subsection are any publi-
3 cations, mailings, or electronic messages or media distrib-
4 uted to prospective or current students and parents of stu-
5 dents that describe, discuss, or relate to the financial aid
6 opportunities available to students at an institution of
7 higher education.

8 **“SEC. 154. PRIVATE EDUCATIONAL LOAN DISCLOSURE RE-**
9 **QUIREMENTS FOR COVERED INSTITUTIONS.**

10 “A covered institution that provides information to
11 any student, or the parent of such student, regarding a
12 private educational loan from a lender shall, prior to or
13 concurrent with such information—

14 “(1) inform the student or parent of—

15 “(A) the student or parent’s eligibility for
16 assistance and loans under title IV; and

17 “(B) the terms and conditions of such pri-
18 vate educational loan that are less favorable
19 than the terms and conditions of educational
20 loans for which the student or parent is eligible,
21 including interest rates, repayment options, and
22 loan forgiveness; and

23 “(2) ensure that information regarding such
24 private educational loan is presented in such a man-
25 ner as to be distinct from information regarding

1 loans that are made, insured, or guaranteed under
2 title IV.

3 **“SEC. 155. INTEGRITY PROVISIONS.**

4 “(a) INSTITUTION CODE OF CONDUCT REQUIRED.—

5 “(1) CODE OF CONDUCT.—Each institution of
6 higher education that participates in the Federal
7 student loan programs under title IV or has stu-
8 dents that obtain private educational loans shall—

9 “(A) develop a code of conduct in accord-
10 ance with paragraph (2) with which its officers,
11 employees, and agents shall comply with respect
12 to educational loans;

13 “(B) publish the code of conduct promi-
14 nently on its website; and

15 “(C) administer and enforce such code in
16 accordance with the requirements of this sub-
17 section.

18 “(2) CONTENTS OF CODE.—The code required
19 by this section shall—

20 “(A) prohibit a conflict of interest or the
21 appearance of a conflict of interest with the re-
22 sponsibilities of such officer, employee, or agent
23 with respect to student loans or other financial
24 aid; and

1 “(B) at a minimum, include provisions in
2 compliance with the provisions of the following
3 subsections of this section.

4 “(3) TRAINING AND COMPLIANCE.—An institu-
5 tion of higher education shall administer and enforce
6 a code of conduct required by this section by, at a
7 minimum, requiring all of its officers, employees,
8 and agents with responsibilities with respect to stu-
9 dent loans or other financial aid to obtain training
10 annually in compliance with the code.

11 “(b) GIFT BAN.—

12 “(1) PROHIBITION.—A lender, guarantor, or
13 servicer of educational loans shall not offer any gift
14 to an officer, employee, or agent of a covered institu-
15 tion.

16 “(2) INSPECTOR GENERAL REPORT.—The In-
17 spector General of the Department of Education
18 shall investigate any reported violation of this sub-
19 section and shall annually submit a report to the
20 Committee on Health, Education, Labor, and Pen-
21 sions of the Senate and the Committee on Education
22 and Labor of the House of Representatives identi-
23 fying all reported violations of the gift ban under
24 paragraph (1), including the lenders involved in each
25 such violation, for the preceding year.

1 “(3) DEFINITION OF GIFT.—

2 “(A) IN GENERAL.—In this subsection, the
3 term ‘gift’ means any gratuity, favor, discount,
4 entertainment, hospitality, loan, or other item
5 having a monetary value of more than a de
6 minimus amount. The term includes a gift of
7 services, transportation, lodging, or meals,
8 whether provided in kind, by purchase of a tick-
9 et, payment in advance, or reimbursement after
10 the expense has been incurred.

11 “(B) EXCEPTIONS.—The term ‘gift’ shall
12 not include any of the following:

13 “(i) Standard informational material
14 related to a loan or financial literacy, such
15 as a brochure.

16 “(ii) Food, refreshments, training, or
17 informational material furnished to an offi-
18 cer, employee, or agent of an institution as
19 an integral part of a training session that
20 is designed to improve the lender’s service
21 to the covered institution, if such training
22 contributes to the professional development
23 of the officer, employee, or agent of the in-
24 stitution.

1 “(iii) Favorable terms, conditions, and
2 borrower benefits on an educational loan
3 provided to a student employed by the cov-
4 ered institution if such terms, conditions,
5 or benefits are comparable to those pro-
6 vided to all students of the institution.

7 “(iv) Exit counseling services provided
8 to borrowers to meet a covered institution’s
9 responsibilities for exit counseling as re-
10 quired by section 485(b) provided that—

11 “(I) a covered institution’s staff
12 are in control of the counseling
13 (whether in person or via electronic
14 capabilities); and

15 “(II) such counseling does not
16 promote the products or services of
17 any lender.

18 “(C) RULE FOR GIFTS TO FAMILY MEM-
19 BERS.—For purposes of this section, a gift to
20 a family member of an officer, employee, or
21 agent of a covered institution, or a gift to any
22 other individual based on that individual’s rela-
23 tionship with the officer, employee, or agent,
24 shall be considered a gift to the officer, em-
25 ployee, or agent if—

1 “(i) the gift is given with the knowl-
2 edge and acquiescence of the officer, em-
3 ployee, or agent; and

4 “(ii) the officer, employee, or agent
5 has reason to believe the gift was given be-
6 cause of the official position of the officer,
7 employee, or agent.

8 “(c) FEES FROM LENDERS FOR SERVICE PROHIB-
9 ITED.—An officer, employee, or agent who is employed in
10 the financial aid office of the institution, or who otherwise
11 has responsibilities with respect to educational loans or
12 other financial aid, shall not accept from any lender or
13 affiliate of any lender (as the term affiliate is defined in
14 section 487(a)) any fee, payment, or other financial ben-
15 efit (including the opportunity to purchase stock) as com-
16 pensation for consulting services, serving on an advisory
17 council, or otherwise advising such lender or affiliate.

18 “(d) BAN ON EDUCATIONAL LOAN ARRANGE-
19 MENTS.—

20 “(1) PROHIBITION.—An institution of higher
21 education shall not enter into any educational loan
22 arrangement with any lender.

23 “(2) DEFINITION.—For purposes of this sub-
24 section, an educational loan arrangement is an ar-
25 rangement between an institution of higher edu-

1 cation (or an agent of the institution) and a lender
2 under which—

3 “(A) a lender provides or issues edu-
4 cational loans to students attending the institu-
5 tion or to parents of such students;

6 “(B) the institution recommends the lender
7 or the loan products of the lender; and

8 “(C) the lender pays a fee or provides
9 other material benefits, including profit or rev-
10 enue sharing, to the institution or officers, em-
11 ployees, or agents of the institution.

12 “(e) BAN ON STAFFING ASSISTANCE.—

13 “(1) PROHIBITION.—An institution of higher
14 education shall not request or accept from any lend-
15 er any assistance with call center staffing or finan-
16 cial aid office staffing.

17 “(2) CERTAIN ASSISTANCE PERMITTED.—Noth-
18 ing in paragraph (1) shall be construed to prohibit
19 an institution from requesting or accepting assist-
20 ance from a lender related to—

21 “(A) professional development training for
22 financial aid administrators; or

23 “(B) providing educational counseling ma-
24 terials, financial literacy materials, or debt
25 management materials to borrowers, provided

1 that such materials disclose to borrowers the
2 identification of any lender that assisted in pre-
3 paring or providing such materials.

4 “(f) BAN ON OPPORTUNITY POOLS.—An institution
5 of higher education shall not request, accept, or consider
6 from any lender any offer of funds to be used for private
7 educational loans to students in exchange for the covered
8 institution providing concessions or promises to the lender,
9 and a lender shall not make any such offer.

10 “(g) BAN ON PARTICIPATION ON ADVISORY COUN-
11 CILS.—An officer, employee, or agent who is employed in
12 the financial aid office of a covered institution, or who oth-
13 erwise has responsibilities with respect to educational
14 loans or other financial aid, shall not serve on or otherwise
15 participate with advisory councils of lenders or affiliates
16 of lenders. Nothing in this subsection shall prohibit lend-
17 ers from seeking advice from covered institutions or
18 groups of covered institutions (including through tele-
19 phonic or electronic means, or a meeting) in order to im-
20 prove products and services for borrowers, provided there
21 are no gifts or compensation (including for transportation,
22 lodging, or related expenses) provided by lenders in con-
23 nection with seeking this advice from such institutions.

1 **“SEC. 156. COMPLIANCE AND ENFORCEMENT.**

2 “(a) CONDITION OF ANY FEDERAL ASSISTANCE.—

3 Notwithstanding any other provision of law, a covered in-
4 stitution or lender shall comply with this part as a condi-
5 tion of receiving Federal funds or assistance provided after
6 the date of enactment of the Student Loan Sunshine Act.

7 “(b) PENALTIES.—Notwithstanding any other provi-
8 sion of law, if the Secretary determines, after providing
9 notice and an opportunity for a hearing for a covered insti-
10 tution or lender, that the covered institution or lender has
11 violated subsection (a)—

12 “(1) in the case of a covered institution, or a
13 lender that does not participate in a loan program
14 under title IV, the Secretary may impose a civil pen-
15 alty in an amount of not more than \$25,000; and

16 “(2) in the case of a lender that does partici-
17 pate in a program under title IV, the Secretary may
18 limit, terminate, or suspend the lender’s participa-
19 tion in such program.

20 “(c) CONSIDERATIONS.—In taking any action against
21 a covered institution or lender under subsection (b), the
22 Secretary shall take into consideration the nature and se-
23 verity of the violation of subsection (a).”.

1 **SEC. 3. PROGRAM PARTICIPATION AGREEMENTS.**

2 Section 487(a) of the Higher Education Act of 1965
3 (20 U.S.C. 1094(a)) is amended by adding at the end the
4 following:

5 “(24)(A) In the case of an institution (including
6 an officer (including a director or trustee), employee,
7 or agent of an institution) that maintains a pre-
8 ferred lender list, in print or any other medium,
9 through which the institution recommends 1 or more
10 specific lenders for educational loans (as such term
11 is defined in section 151 of this Act, but excluding
12 loans under part D of this title) to the students at-
13 tending the institution (or the parents of such stu-
14 dents), the institution will—

15 “(i) clearly and fully disclose on the pre-
16 ferred lender list—

17 “(I) why the institution has included
18 each lender as a preferred lender, espe-
19 cially with respect to terms and conditions
20 favorable to the borrower; and

21 “(II) that the students attending the
22 institution (or the parents of such stu-
23 dents) do not have to borrow from a lender
24 on the preferred lender list;

1 “(ii) ensure, through the use of the list
2 provided by the Secretary under subparagraph
3 (C), that—

4 “(I) there are not less than 3 lenders
5 named on the each preferred lending list
6 offered by the institution that are not af-
7 filiates of each other; and

8 “(II) the preferred lender list—

9 “(aa) specifically indicates, for
10 each lender on the list, whether the
11 lender is or is not an affiliate of each
12 other lender on the list; and

13 “(bb) if the lender is an affiliate
14 of another lender on the list, describes
15 the specifics of such affiliation;

16 “(iii) establish and prominently disclose a
17 process to ensure that lenders are placed upon
18 the preferred lender list on the basis of the ben-
19 efits provided to borrowers, including—

20 “(I) highly competitive interest rates,
21 terms, or conditions for loans made under
22 part B;

23 “(II) high-quality servicing for such
24 loans; or

1 “(III) additional benefits beyond the
2 standard terms and conditions for such
3 loans;

4 “(iv) exercise a duty of care and a duty of
5 loyalty to compile the preferred lender list with-
6 out prejudice and for the sole benefit of the stu-
7 dent;

8 “(v) not deny or otherwise impede the bor-
9 rower’s choice of a lender or cause unnecessary
10 delays in loan certification under this title for
11 those borrowers who choose a lender than has
12 not been recommended or suggested by the in-
13 stitution.

14 “(B) For the purposes of subparagraph
15 (A)(ii)—

16 “(i) the term ‘affiliate’ means a person
17 that controls, is controlled by, or is under com-
18 mon control with another person; and

19 “(ii) a person controls, is controlled by, or
20 is under common control with another person
21 if—

22 “(I) the person directly or indirectly,
23 or acting through 1 or more others, owns,
24 controls, or has the power to vote 5 per-

1 cent or more of any class of voting securi-
 2 ties of such other person;

3 “(II) the person controls, in any man-
 4 ner, the election of a majority of the direc-
 5 tors or trustees of such other person; or

6 “(III) the Secretary determines (after
 7 notice and opportunity for a hearing) that
 8 the person directly or indirectly exercises a
 9 controlling interest over the management
 10 or policies of such other person.

11 “(C) The Secretary shall maintain and update
 12 a list of lender affiliates of all eligible lenders, and
 13 shall provide such list to the eligible institutions for
 14 use in carrying out subparagraph (A).”.

15 **SEC. 4. NOTICE OF AVAILABILITY OF FUNDS FROM FED-**
 16 **ERAL SOURCES.**

17 Section 128 of the Truth in Lending Act (15 U.S.C.
 18 1638) is amended by adding at the end the following:

19 “(e) DISCLOSURES RELATING TO PRIVATE EDU-
 20 CATIONAL LOANS.—

21 “(1) IN GENERAL.—In the case of an extension
 22 of credit that is a private educational loan, other
 23 than a loan secured by a dwelling or an open end
 24 credit plan, the creditor shall provide in every appli-
 25 cation for such extensions of credit and together

1 with any solicitation, marketing, or advertisement of
2 such extensions of credit, written, electronic, or oth-
3 erwise, the disclosures described in paragraph (2).

4 “(2) DISCLOSURES.—Disclosures required by
5 this subsection shall include a clear and prominent
6 statement—

7 “(A) that the borrower may qualify for
8 Federal financial assistance through a program
9 under title IV of the Higher Education Act of
10 1965, in lieu of or in addition to a loan from
11 a non-Federal source;

12 “(B) that in many cases, a Federal stu-
13 dent loan may provide the consumer with more
14 beneficial terms and conditions, including a
15 lower annual percentage rate and fewer and
16 lower fees, than private educational loans;

17 “(C) that the consumer may obtain addi-
18 tional information concerning such Federal fi-
19 nancial assistance from their institution of
20 higher education or at the website of the De-
21 partment of Education; and

22 “(D) such other information as the Board
23 may require.

24 “(3) CLEAR AND CONSPICUOUS DISCLOSURE.—

25 The disclosure required under paragraph (2) shall be

1 placed in a conspicuous and prominent location on
2 or with any written application, solicitation, or other
3 document or paper relating to any extension of cred-
4 it consisting of or involving a private educational
5 loan for which such disclosure is required under this
6 subsection.

7 “(4) WRITTEN ACKNOWLEDGMENT OF RE-
8 CEIPT.—In each case in which a disclosure is pro-
9 vided pursuant to paragraph (2) and an application
10 initiated, a creditor shall obtain a written acknowl-
11 edgment from the consumer that the consumer has
12 read and understood the disclosure.

13 “(5) ADDITIONAL DISCLOSURES.—In the case
14 of an extension of credit that is a private educational
15 loan, other than a loan secured by a dwelling or an
16 open end credit plan, the creditor shall make avail-
17 able, in a clear and accessible manner (including
18 through the website of the creditor), the information
19 required by sections 153(a)(1)(B)(iv) and (v) of the
20 Higher Education Act of 1965.

21 “(6) PROVISION OF INFORMATION.—Before a
22 creditor may issue any funds with respect to an ex-
23 tension of credit described in paragraph (1) for an
24 amount equal to more than \$1,000, the creditor
25 shall notify the relevant postsecondary educational

1 institution, in writing, of the proposed extension of
 2 credit and the amount thereof.

3 “(7) REGULATORY AUTHORITY.—The Board—

4 “(A) shall issue such rules and regulations
 5 as may be necessary to implement this sub-
 6 section; and

7 “(B) may, by rule, establish appropriate
 8 exceptions to the requirements of this sub-
 9 section.

10 “(8) DEFINITIONS.—As used in this subsection,
 11 the terms ‘private educational loan’ and ‘covered in-
 12 stitution’ have the same meanings as in section 151
 13 of the Higher Education Act of 1965.”.

14 **SEC. 5. IMPROVED INFORMATION CONCERNING THE FED-**
 15 **ERAL STUDENT FINANCIAL AID WEBSITE.**

16 Section 131 of the Higher Education Act of 1965 (20
 17 U.S.C. 1015) is amended by adding at the end the fol-
 18 lowing new subsection:

19 “(e) PROMOTION OF THE DEPARTMENT OF EDU-
 20 CATION FEDERAL STUDENT FINANCIAL AID WEBSITE.—
 21 The Secretary—

22 “(1) shall display a link to the Federal student
 23 financial aid website of the Department of Edu-
 24 cation in a prominent place on the homepage of the
 25 Department of Education website; and

1 “(2) may use administrative funds available for
2 the Department’s operations and expenses for the
3 purpose of advertising and promoting the availability
4 of the Federal student financial aid website.

5 “(f) PROMOTION OF AVAILABILITY OF INFORMATION
6 CONCERNING STUDENT FINANCIAL AID PROGRAMS OF
7 OTHER DEPARTMENTS AND AGENCIES.—

8 “(1) AVAILABILITY OF INFORMATION.—The
9 Secretary shall ensure that the eligibility require-
10 ments, application procedures, financial terms and
11 conditions, and other relevant information for each
12 non-departmental student financial assistance pro-
13 gram are easily accessible through the Federal stu-
14 dent financial aid website and are incorporated into
15 the search matrix on such website in a manner that
16 permits students and parents to readily identify the
17 programs that are appropriate to their needs and eli-
18 gibility.

19 “(2) AGENCY RESPONSE.—Each Federal de-
20 partment and agency shall promptly respond to sur-
21 veys or other requests for the information required
22 by paragraph (1), and shall identify for the Sec-
23 retary any non-departmental student financial as-
24 sistance program operated, sponsored, or supported
25 by such Federal department or agency.

7 “(A) distributed directly to the student or
8 to the student’s account at the institution of
9 higher education; and

“(B) operated, sponsored, or supported by
a Federal department or agency other than the
Department of Education.”.

Attest: LORRAINE C. MILLER,
Clerk.